

Express Mail No. EV 432654209 US

REMARKS

Upon entry of this Amendment B, claims 1-6, 10-29, 31, and 34-39 are currently pending and under consideration. It should be noted that Preliminary Amendment A was filed on December 24, 2003 amending the specification and claims 1, 4-6, 24, and 27-29 and cancelling claims 7-9, 30, 32, and 33. Based on a review of the Patent Application Information Retrieval (PAIR) information for this application, it appears that Preliminary Amendment A was not received and/or entered by the Office. Consequently, in an effort to ensure that the correct claims are pending before the Office, applicant has incorporated all amendments and claim cancellations made in Preliminary Amendment A into this Amendment B. Thus, claims 7-9, 30, 32 and 33 are cancelled again by this Amendment B; in canceling this subject matter from this application, applicants expressly reserve the right to pursue the remaining subject matter through one or more continuation applications.

New claims 34-39 are supported by the specification. In particular, support for claim 34 may be found, for example, at page 3, lines 12-34. Support for claims 35-37 may be found, for example, in the claims as originally presented (*see, i.e.*, claim 12) and at page 4, lines 16-21 of the specification. Further support can be found in the definition of "heterocyclo" found at page 21, lines 17-28 of the specification. Support for claim 38 may be found, for example, at page 4, lines 22-28 of the specification. Further support for claim 38 may be found in the series of compounds recited in Example 4. Support for claim 39 may be found, for example, at page 3, lines 34-36.

The amendments to the specification made herein are merely of an editorial nature for the purpose of correcting certain typographical errors. The amendments to the claims are supported in the specification at page 12, lines 5-14 and Examples 2 and 3.

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I. 35 U.S.C. §102(e) Rejection

Reconsideration is requested of the rejection of claims 1 and 24 under 35 U.S.C. §102(e) as being anticipated by U.S. 6,100,411 (Ojima et al.). The compounds disclosed by Ojima et al. do not meet the requirements of claims 1 and 24. In particular, claims 1 and 24 require compounds having a carbonyl group (-COX₁₀) off of the side-chain nitrogen. Ojima et al. instead require a carbonyloxy group (-COOR²) at the corresponding position.

II. Obviousness-type Double Patenting Rejection

The Office has rejected claims 1-33 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-117 of U.S. Patent No. 6,660,866 (Holton). Applicant will determine the propriety of filing a terminal disclaimer with respect to this reference once all other rejections have been resolved.

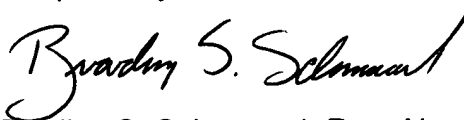
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CONCLUSION

In light of the foregoing, applicants request entry of the claim amendments and new claims, withdrawal of all claim rejections, and solicit an allowance of the claims. The Examiner is invited to contact the undersigned attorney should any issue remain unresolved.

The Commissioner is hereby authorized to charge any under payment or credit any over payment to Deposit Account No. 19-1345.

Respectfully submitted,



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